



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Diesel Systems, Inc.

**File:** B-237333

**Date:** November 9, 1989

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### DIGEST

1. Contention that the low bidder will be unable to perform at its offered price constitutes an allegation that the firm is not responsible; General Accounting Office generally does not review affirmative determinations of responsibility.
2. A protester has no standing to claim an error in a competitor's bid, since it is the responsibility of the contracting parties--the government and the low offeror--to assert rights and bring forth the necessary evidence to resolve mistake questions.

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### DECISION

Diesel Systems, Inc., protests the award of a contract to MC II Generator and Electric under invitation for bids (IFB) No. N47408-89-B-2011, issued by the Department of the Navy for the overhaul and rehabilitation of diesel engine power plants. Diesel contends that MC II will be unable to perform the contract at its offered price. Additionally, the protester alleges that the agency's bid verification process is flawed because it believes that the awardee can not possibly perform the scope of work set forth in the IFB at the price that it bid.

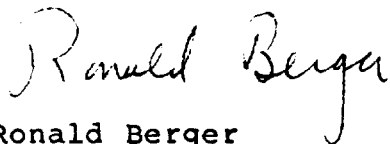
The IFB was issued on May 22, 1989, and four bids, including MC II's low bid, were received at bid opening. The agency subsequently conducted a preaward survey of MC II. In a summary of team findings dated September 7, 1989, the preaward survey monitor concluded that MC II did affirmatively demonstrate the ability to meet the requirements of the IFB and recommended that MC II receive the award. Consequently, the contract was awarded to MC II on September 27. This protest followed.

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With respect to Diesel System's allegations challenging MC II's ability to perform the contract at the price offered, our Office has consistently stated that this is a matter of the contractor's responsibility. DJ Enterprises, Inc., B-233410, Jan. 23, 1989, 89-1 CPD ¶ 59. We will not review a contracting officer's determination of responsibility unless there is a showing of possible fraud or bad faith on the part of procurement officials. Id. To meet this standard, we require that the protester allege facts that reasonably indicate that the government actions complained of were improperly motivated. The Forestry Association, Inc., B-237087, Oct. 5, 1989, 89-2 CPD ¶ \_\_\_\_\_. Here, the protester has presented no such facts. Further, to the extent that Diesel suggests that MC II has submitted a "below-cost" bid, it is well established that there is nothing improper either in a firm's proposing what may be a below-cost price to obtain a government contract or in the government's accepting the bid after determining that the firm is responsible. See Maschhoff, Barr & Assocs., B-233322, Nov. 18, 1988, 88-2 CPD ¶ 491.

The protester also alleges that MC II has submitted such a low-priced bid that the bid verification process employed by the agency must have been flawed. Essentially, it argues that the awardee's bid is so low that it is obviously erroneous and therefore should have been rejected by the government. However, a protester has no standing to claim an error in a competitor's bid, since it is the responsibility of the contracting parties--the government and the low bidder--to assert rights and bring forth the necessary evidence to resolve mistake questions. See Esilux Corp., B-234689, June 8, 1989, 89-1 CPD ¶ 538.

Accordingly, the protest is dismissed.



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